IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.821 OF 2001

Dhanendra Kallappa Rajmane ...Appellant

vs.

1.Bhupal Balu Vhannure
2.Bharat Ganpati Turambe
3.Prakash Pandurang Chudmunge
4.The New India Assurance Company ...Respondents

Mr.T.S.Ingale for the Appellant
Mr.Pravin Patel i/b M/s.Pradip Shukla & Co. for the Respondent No.4.

CORAM: A.S.OKA,J.
DATE : MARCH 8,2007.

ORAL JUDGMENT:

1. Heard Advocate for the Appellant and the Advocate for the fourth Respondent. The Appellant is the claimant in a Claim Application under section 166 of Motor Vehicles Act,1988. As a result of the accident, the Applicant suffered various injuries. The applicant claimed compensation of Rs.43,667/-.

2. The learned Member of the Motor Accident Claims Tribunal, Kolhapur partly allowed the Claim Application and passed the following order :

. "Petition is partly allowed for Rs.31,500/- (Rupees thirty one thousand five hundred only), including Rs.12,000/- already paid under no fault liability, with proportionate costs.

. Opponents 1,2,3 and 4 are jointly and severally liable to pay to the applicant Rs.19,500/- within two months from the date of this order, in default, the said amount shall carry interest at the rate of 12% per annum from the date of default till realisation.

. The decretal amount shall be paid to the applicant by cross cheque.

. Award be drawn accordingly."

3. The submission of the learned Advocate for the Appellant is that interest ought to have been awarded at the rate of 12% p.a. from the date of filing the Claim Petition and there was no reason to deny the interest. The learned Counsel for the fourth Respondent pointed out the finding recorded by the Tribunal and submitted that the Tribunal was right in denying interest as there cannot be any interest awarded on the expenses which are likely to be incurred in future.

4. I have considered the submissions. The total compensation awarded is Rs.31,500/-. Perusal of the paragraph 9 shows that only a sum of Rs.8,500/- is awarded on account of future expenses likely to be incurred on surgery. Therefore, there was a justification to deny the interest on the said amount. Moreover, there was also a justification to deny the interest

on a sum of Rs.12,000/- paid to the Appellant under No Fault Liability. However, denial of interest on the balance amount of Rs.11,000/- cannot be justified as the said amount is towards pain and suffering and medical expenditure as well as the loss of income. Therefore, operative part of the Award needs modification and the interest will have to be allowed on the sum of Rs.11,000/- from the date of filing Claim Petition till realisation.

5. Hence, Appeal is disposed of by passing the following order :

A) Operative part of the impugned Judgment and Award is modified which will now read thus :

"i) Petition is partly allowed for Rs.31,500/- (Rupees thirty one thousand five hundred only) including Rs.12,000/- already paid under No Fault Liability with proportionate costs.

ii) Opponent Nos.1,2,3 and 4 are jointly and severally liable to pay to the Applicant the balance amount of Rs.19,500/-. Out of the balance amount, on a sum of Rs.11,000/-, the said opponents are liable to pay interest to the Applicants at the rate of 12% p.a. from the date of filing the claim petition till the realisation of the amount.

iii) The balance amount of Rs.8,500/- will also carry interest at the rate of 12% p.a. from the date of default till realisation if the same remain unpaid within a period of two months from the date of this Award.

iv) The amount of compensation shall be paid to the Applicant by Account Payee Cheque.

v) The Award be drawn accordingly."

B) If any payment is made by the Respondents on the basis of the impugned Award, the same will be naturally adjusted against the modified Award.

C) Time of four months is granted to the forth Respondent to comply with the modified Award. There will be no order as to costs in this Appeal.

Judge